

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) ANDREW BUCHANAN,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.: CIV-17-633-R
v.	)	
	)	COMPLAINT AND JURY
(2) SHAPARD RESEARCH, LLC,	)	DEMAND
	)	
Defendant.	)	

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**

Plaintiff, ANDREW BUCHANAN (“Buchanan” or “Plaintiff”), brings this complaint in the United States District Court for the Western District of Oklahoma against SHAPARD RESEARCH, LLC (“Shapard” or “Defendant”), alleging as follows:

**PARTIES**

1. Plaintiff is an established commercial photographer with twenty (20) years experience. Plaintiff regularly produces high-quality aerial, abstract, and architectural photographs for a wide variety of commercial and advertising clients. Plaintiff is a United States citizen and resides in Seattle, Washington. Plaintiff regularly works for clients such as Alaska Airlines, University of Washington, Skansa Construction, and CoughlinPorterLundeen Engineers. Plaintiff maintains a business website, [www.subtlelightphoto.com](http://www.subtlelightphoto.com), and a stock

website, [www.homeandgardenphotos.com](http://www.homeandgardenphotos.com). Both websites display an extensive selection of Plaintiff's photography.

2. On information and belief, Defendant is a limited liability company existing under the laws of the State of Oklahoma, with headquarters in Oklahoma City, Oklahoma. Defendant is a national market research and polling company specializing in data collection throughout the United States.

### **JURISDICTION AND VENUE**

1. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
2. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
3. This Court has personal jurisdiction over the Defendant, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that a substantial part of the acts of infringement complained of herein occurred in this District.

### **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

4. On June 27, 2013, Plaintiff executed a contract with Hoffman Construction to photograph the interior of the ProCure facility at Northwest Hospital.  
[EXHIBIT 1].

5. Plaintiff captured the photograph, “df029201” (“Copyrighted Photograph”) on July 20, 2013 at the Seattle ProCure facility at Northwest Hospital, located in Seattle, Washington. Plaintiff captured the Copyrighted Photograph using multiple exposures, sophisticated lighting, and a support crew. [EXHIBIT 2].
6. Plaintiff registered Copyrighted Photograph with the United States Copyright Office on July 23, 2013 (Registration No.: 1-148-036). [EXHIBIT 3].
7. Plaintiff posted the Copyrighted Photograph on [www.subtlelightphoto.com](http://www.subtlelightphoto.com) (last visited: May 16, 2017) on or about August 1, 2013.
8. Beginning on or about February 2, 2015, Defendant copied and posted the Copyrighted Photograph to the company’s website, [www.soonerpoll.com](http://www.soonerpoll.com) (last visited: May 16, 2017), to accompany an article on Oklahoma House Bill 1515.
9. The Copyrighted Photograph was posted to the following URL: [www.soonerpoll.com/oklahomans-want-physician-prescribed-treatment](http://www.soonerpoll.com/oklahomans-want-physician-prescribed-treatment) (last visited: May 16, 2017). [EXHIBIT 4].
10. Defendant posted links to Twitter, Facebook, Google Plus, and Pinterest directly below the article referenced in Paragraphs 8 and 9. [EXHIBIT 5].

**COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. §101 ET SEQ.**

11. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiff is, and at all relevant times has been, the copyright owner or licensee of exclusive rights under United States copyright with respect to the Copyrighted Photograph, which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights. The date of registration for Copyrighted Photograph is within three months of the initial publication of the work.
13. Among the exclusive rights granted to each plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Photograph and to distribute the Copyrighted Photograph to the public.
14. Plaintiff is informed and believes that Defendant, without the permission or consent of Plaintiff, has copied and used the Copyrighted Photograph on Defendant's commercial, public website, [www.soonerpoll.com](http://www.soonerpoll.com). In doing so, Defendant violated Plaintiff's exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiff's copyrights and exclusive rights under copyright.
15. Plaintiff is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Plaintiff.
16. As a result of Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to statutory damages pursuant to 17

U.S.C. § 504(c) for Defendant's infringement of the Copyrighted Photograph. Plaintiff is further entitled to his attorneys' fees and costs pursuant to 17 U.S.C. § 505.

**COUNT II: CONTRIBUTORY INFRINGEMENT**

17. Plaintiff is informed and believes that Defendant, without the permission or consent of Plaintiff, knowingly made available and encouraged visitors to share the Copyrighted Photograph.
18. Plaintiff is informed and believes that Defendant, without the permission or consent of Plaintiff, had knowledge or reason to know of such contributory infringement.
19. As a result of Defendant's actions, Plaintiff is entitled to statutory damages or such other and further relief as is just and proper.

**COUNT III: REMOVAL AND ALTERATION OF INTEGRITY OF  
COPYRIGHT MANAGEMENT INFORMATION PURSUANT TO 17 U.S.C.  
§1202**

20. Plaintiff is informed and believes that Defendant, without the permission or consent of Plaintiff, knowingly and with the intent to conceal infringement, removed copyright information management information from the Copyrighted Photograph by cropping out such information before displaying the Copyrighted Photograph on Defendant's website, [www.soonerpoll.com](http://www.soonerpoll.com). In doing so, Defendant violated 17 U.S.C. § 1202(a)(1) and (b)(1).

21. As a result of Defendant's actions, Plaintiff is entitled to actual damages or statutory damages pursuant to 17 U.S.C. § 1203(c). Plaintiff is further entitled to his attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b)(5).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. Declaring that Defendant's unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Defendant, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing Plaintiff's Copyrighted Photograph without consent or otherwise infringing Plaintiff's copyright or other rights in any manner;
- C. Ordering Defendant to account to Plaintiff for all gains, profits, and advantages derived by Defendant by their infringement of Plaintiff's copyright or such damages as are proper, and since Defendant intentionally infringed Plaintiff's copyright, for the maximum allowable statutory damages for each violation;
- D. Awarding Plaintiff actual and/or statutory damages for Defendant's copyright infringement in an amount to be determined at trial;

- E. Awarding Plaintiff his costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 505, 17 U.S.C. § 1203(c), and § 1203(b)(5); and
- F. Awarding Plaintiff such other and further relief as is just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all claims for which there is a right to jury trial.

Respectfully submitted,

/s/ Edward L. White

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